

## REMARKS

The Examiner identified patentably distinct inventions in Group I and Group II. The Group I invention was indicated by the Examiner as being claims 10-15, which are drawn to a method of forming a semiconductor device, classified in class 438, subclass 261. The Group II invention was identified by the Examiner as being claims 1-9, drawn to a semiconductor device, classified in class 257, subclass 300+. The Examiner based the restriction on the belief that the inventions are distinct because the product as claimed can be made by another and materially different process. The Examiner supported the distinction by an example of a product by forming a first polysilicon layer on the patterned tunnel oxide layer and forming an anit-reflective interpoly layer on the patterned first polysilicon layer.

As stated above, Applicants provisionally elect, with traverse, the Group II, a semiconductor device, upon which claims 1-9 are readable and non-elect, with traverse, the Group I method of forming a semiconductor device upon which claims 10-15 are readable.

Applicants hereby elect Claims 1-9 in Group II with traverse. The Applicants respectfully submit that the non-elected claims 10-15 recite a method of manufacturing the device of the elected claims. In view of the foregoing, Applicants respectfully request that examination on the elected claims commence.

Respectfully submitted,



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